

Executive Summary – Enforcement Matter – Case No. 49008

City of Amherst

RN101607687

Docket No. 2014-1058-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Amherst WWTP, located northeast of Amherst approximately 0.5 mile east and 0.75 mile north of the intersection of Farm-to-Market Road 37 and First Street, Lamb County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 20, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,939

Amount Deferred for Expedited Settlement: \$3,187

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$12,752

Name of SEP: Texas Association of Resources Conservation and Development Areas, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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City of Amherst
RN101607687
Docket No. 2014-1058-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 12, 2014

Date(s) of NOE(s): July 11, 2014

Violation Information

1. Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration. Specifically, two unlicensed operators were operating the Facility three to four days per week [TEX. WATER CODE § 26.0301(a), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010118001, Special Provisions No. 2].
2. Failed to timely submit the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013 by September 1 of each year [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TCEQ Permit No. WQ0010118001, Sludge Provisions].
3. Failed to collect the required effluent samples and measurements after the final treatment unit. Specifically, the Respondent has been collecting effluent samples and measurements following the second effluent holding pond since July 19, 2012, which is not the final treatment unit [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(a) and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. B].
4. Failed to comply with permitted effluent limits for pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. A]
5. Failed to maintain a minimum freeboard of two feet in accordance with 30 Texas Administrative Code ch. 217, Design Criteria for Domestic Wastewater Systems. Specifically, a minimum freeboard of two feet was not being maintained in the Facility's effluent holding ponds [30 TEX. ADMIN. CODE §§ 217.207(d)(5) and 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 7].
6. Failed to properly conduct and report groundwater monitoring. Specifically, groundwater sampling records indicated that groundwater samples were collected on June 7, 2011; October 9, 2012; August 29, 2013; and February 25, 2014, which reflected that the groundwater wells were not being sampled every six months as required. In addition, the groundwater well water levels were not included as part of the collected data. Additionally, none of this data was submitted to the TCEQ Lubbock Regional Office as required [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 19].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following:

- a. By June 30, 2014, began maintaining a minimum of two feet of freeboard in the effluent holding ponds.
- b. By July 3, 2014:
 - i. Employed a licensed wastewater treatment facility operator holding a valid Class C license to operate the Facility at least five days per week;
 - ii. Submitted the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013; and
 - iii. Began collecting the required effluent samples and measurements following the final treatment unit.
- c. By August 15, 2014, updated operational guidance and conducted employee training to ensure that:
 - i. All reporting procedures are properly accomplished for annual sludge reports; and
 - ii. All groundwater monitoring and reporting is conducted.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require within 90 days, the Respondent to submit written certification of compliance with the permitted effluent limits of TCEQ Permit No. WQ0010118001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current effluent monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 49008

City of Amherst

RN101607687

Docket No. 2014-1058-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Christopher Bost, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: The Honorable Joe A. Miller, Mayor, City of Amherst, P.O. Box 560,
Amherst, Texas 79312-0560

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-1058-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-----------------------------------|---|
| Respondent: | City of Amherst |
| Penalty Amount: | Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) |
| SEP Offset Amount: | Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Administrator: | Texas Association of Resource Conservation and Development Areas, Inc. |
| Project Name: | <i>Cleanup of Unauthorized Trash Dumpsites</i> |
| Location of SEP: | Lamb County - Brazos River Basin, Ogallala Aquifer |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Cleanup of Unauthorized Trash Dumpsites*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Amherst
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

The Respondent shall begin making twelve monthly contributions to the Third Party Administrator on this payment schedule: the first monthly payment of \$1,752 followed by eleven payments of \$1,000 each, totaling \$12,752. The first installment shall be paid within 30 days after the effective date of this Agreed Order. Subsequent payments shall be paid not later than 30 days following the due date of the previous payment. A copy of this Agreed Order shall be included each month with the donation. The SEP contributions shall be made payable to "**Texas Association of Resource Conservation and Development Areas, Inc.**" and mailed to the address below:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Amherst
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 14-Jul-2014 | Screening | 15-Jul-2014 | EPA Due | |
| | PCW | 25-Jul-2014 | | | | |

RESPONDENT/FACILITY INFORMATION

| | |
|-----------------------------|-----------------|
| Respondent | City of Amherst |
| Reg. Ent. Ref. No. | RN101607687 |
| Facility/Site Region | 2-Lubbock |
| Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 49008 | No. of Violations | 6 |
| Docket No. | 2014-1058-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Christopher Bost |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$14,750 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|-------------------|--------------------------------|---------|
| Compliance History | 20.0% Enhancement | Subtotals 2, 3, & 7 | \$2,950 |
|---------------------------|-------------------|--------------------------------|---------|

Notes: Enhancement for one order with denial.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|----------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$1,761 |
|--|-------------------|----------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts \$3,528
Estimated Cost of Compliance \$47,425
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$15,939 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$15,939 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$15,939 |
|-----------------------------------|-------------------------------|----------|

| | | | |
|-----------------|-----------------|-------------------|----------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$3,187 |
|-----------------|-----------------|-------------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$12,752 |
|------------------------|----------|

Screening Date 15-Jul-2014

Docket No. 2014-1058-MWD-E

PCW

Respondent City of Amherst

Policy Revision 4 (April 2014)

Case ID No. 49008

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101607687

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 15-Jul-2014
Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media [Statute] Water Quality
Enf. Coordinator Christopher Bost

Docket No. 2014-1058-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.0301(a), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010118001, Special Provisions No. 2

Violation Description

Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, as documented during an investigation conducted on June 12, 2014. Specifically, two unlicensed operators were operating the Facility three to four days per week.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | x | | |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

21 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | x |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$3,750

One monthly event is recommended, from the investigation date (June 12, 2014) to the compliance date (July 3, 2014).

Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes The Respondent returned to compliance by July 3, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,175

Violation Final Penalty Total \$3,563

This violation Final Assessed Penalty (adjusted for limits) \$3,563

Economic Benefit Worksheet

Respondent City of Amherst
 Case ID No. 49008
 Reg. Ent. Reference No. RN101607687
 Media Water Quality
 Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|----------|-------------|------------|------|------|---------|---------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | \$26,000 | 12-Jun-2014 | 3-Jul-2014 | 0.06 | \$75 | \$1,496 | \$1,571 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided cost includes the estimated difference between the annual salary of a licensed Category D wastewater treatment facility operator and an unlicensed wastewater treatment facility operator. Date required is the investigation date. Final date is the date of compliance.

| | | | |
|----------------------------|----------|-------|---------|
| Approx. Cost of Compliance | \$26,000 | TOTAL | \$1,571 |
|----------------------------|----------|-------|---------|

Screening Date 15-Jul-2014

Docket No. 2014-1058 MWD-E

PCW

Respondent City of Amherst

Policy Revision 4 (April 2014)

Case ID No. 49008

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101607687

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (17) and TCEQ Permit No. WQ0010118001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013 by September 1 of each year, as documented during an investigation conducted on June 12, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | x |

Percent 1.0%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3

1,048

Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$750

Three single events are recommended, one for each late report.

Good Faith Efforts to Comply

10.0%

Reduction \$75

Before NOE/NOV NOE/NOV to EDP RP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes

The Respondent returned to compliance by August 15, 2014.

Violation Subtotal \$675

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$825

This violation Final Assessed Penalty (adjusted for limits) \$825

Economic Benefit Worksheet

Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <i>No commas or \$</i> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$150 | 1-Sep-2011 | 3-Jul-2014 | 2.84 | \$21 | n/a | \$21 |
| Training/Sampling | \$150 | 7-Jun-2011 | 15-Aug-2014 | 3.19 | \$24 | n/a | \$24 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

The first delayed cost is the estimated amount to submit the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013. Date required is the date the first sludge report was due. Final date is the date the missing reports were received.

Notes for DELAYED costs

The second delayed cost includes the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished for annual sludge reports and to ensure that all groundwater monitoring and reporting is conducted in accordance with the Facility's wastewater permit. The date required is the first date of noncompliance and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$45

Screening Date 15-Jul-2014
Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media [Statute] Water Quality
Enf. Coordinator Christopher Bost
Violation Number 3
Rule Cite(s)

Docket No. 2014-1058-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

30 Tex. Admin. Code §§ 305.125(1) and 319.5(a) and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. B

Violated to collect the required effluent samples and measurements after the final treatment unit, as documented during an investigation conducted on June 12, 2014. Specifically, the Respondent has been collecting effluent samples and measurements following the second effluent holding pond since July 19, 2012, which is not the final treatment unit.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 3.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 21 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$187

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes The Respondent returned to compliance by July 3, 2014.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$713

This violation Final Assessed Penalty (adjusted for limits) \$713

Economic Benefit Worksheet

Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|------|-------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | \$50 | 19-Jul-2012 | 3-Jul-2014 | 1.96 | \$5 | n/a | \$5 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to begin collecting the required effluent samples and measurements following the final treatment unit. Date required is the date the Respondent began collecting effluent samples and measurements following the second effluent holding pond. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$5

Screening Date 15-Jul-2014

Docket No. 2014-1058-MWD-E

PCW

Respondent City of Amherst

Policy Revision 4 (April 2014)

Case ID No. 49008

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101607687

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 4

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. A

Violation Description

Failed to comply with permitted effluent limits, as documented during an investigation conducted on June 12, 2014 and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 5.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

9 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$5,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDP RP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,196

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media Water Quality
Violation No. 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|------------|------|---------|-----|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 17-Jan-2013 | 9-Jun-2015 | 2.39 | \$1,196 | n/a | \$1,196 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to determine the cause of non-compliance and implement corrective actions. Date required is the first date of noncompliance. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

| | | | |
|----------------------------|----------|-------|---------|
| Approx. Cost of Compliance | \$10,000 | TOTAL | \$1,196 |
|----------------------------|----------|-------|---------|

Screening Date 15-Jul-2014
Respondent City of Amherst
Case ID No. 49008

Docket No. 2014-1058-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101607687
Media [Statute] Water Quality
Enf. Coordinator Christopher Bost
Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 217.207(d)(5) and 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 7

Violation Description

Failed to maintain a minimum freeboard of two feet in accordance with 30 Texas Administrative Code ch. 217, Design Criteria for Domestic Wastewater Systems, as documented during an investigation conducted on June 12, 2014. Specifically, a minimum freeboard of two feet was not being maintained in the Facility's effluent holding ponds.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 3.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 18 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | x |

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$187

| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|----------------|-----------------------------------|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | (mark with x) |

Notes

The Respondent returned to compliance by June 30, 2014.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$713

This violation Final Assessed Penalty (adjusted for limits) \$713

Economic Benefit Worksheet

Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media Water Quality
Violation No. 5

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 12-Jun-2014 | 30-Jun-2014 | 0.05 | \$2 | n/a | \$2 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to begin maintaining a minimum of two feet of freeboard in the effluent holding ponds. Date required is the date of the investigation. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$2

| | | | | | |
|--|---|--|---|--|---|
| Screening Date 15-Jul-2014 Respondent City of Amherst Case ID No. 49008 Reg. Ent. Reference No. RN101607687 Media [Statute] Water Quality Enf. Coordinator Christopher Bost | Docket No. 2014-1058-MWD-E | PCW <small>Policy Revision 4 (April 2014) PCW Revision March 26, 2014</small> | | | |
| Violation Number 6 | | | | | |
| Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 19 | | | | | |
| Violation Description Failed to properly conduct and report groundwater monitoring, as documented during an investigation conducted on June 12, 2014. Specifically, groundwater sampling records indicated that groundwater samples were collected on June 7, 2011; October 9, 2012; August 29, 2013; and February 25, 2014, which reflected that the groundwater wells were not being sampled every six months as required. In addition, the groundwater well water levels were not included as part of the collected data. Additionally, none of this data was submitted to the TCEQ Lubbock Regional Office as required. | | | | | |
| Base Penalty | | \$25,000 | | | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Release Actual Potential | Harm Major Moderate Minor | | | |
| | | | | | |
| | | x | | | |
| | | | | | Percent 5.0% |
| >> Programmatic Matrix | | | | | |
| | Falsification Major Moderate Minor | | | | |
| | | | | | |
| | | | | | |
| | | | | | Percent 0.0% |
| Matrix Notes | Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation. | | | | |
| Adjustment | | | | | \$23,750 |
| | | | | | \$1,250 |
| Violation Events | | | | | |
| Number of Violation Events | | 3 | Number of violation days | | 3 |
| mark only one with an x | daily | | | | |
| | weekly | | | | |
| | monthly | | | | |
| | quarterly | x | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | | | | |
| | | | | | Violation Base Penalty \$3,750 |
| Three quarterly events are recommended, one for each missed sampling event. | | | | | |
| Good Faith Efforts to Comply | | 10.0% | Reduction | | \$375 |
| | | Before NOE/NOV Extraordinary Ordinary N/A | NOE/NOV to EDPRP/Settlement Offer x (mark with x) | | |
| Notes | | The Respondent returned to compliance by August 15, 2014. | | | |
| Violation Subtotal | | | | | \$3,375 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$105 | Violation Final Penalty Total | | \$4,125 |
| This violation Final Assessed Penalty (adjusted for limits) | | | | | \$4,125 |

Economic Benefit Worksheet

Respondent City of Amherst
Case ID No. 49008
Reg. Ent. Reference No. RN101607687
Media Water Quality
Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See the second delayed cost in the Economic Benefit Worksheet for Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|------|-------------|-------------|------|-----|------|------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$75 | 31-Dec-2011 | 30-Apr-2013 | 2.25 | \$8 | \$75 | \$83 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost that was avoided by failing to conduct the required groundwater monitoring every six months at \$25 per sample (3 missed sampling events x \$25). Date required is the last date of the monitoring period that the first missed sampling event was due. The final date is the last date of the monitoring period that the third missed sampling event was due.

Approx. Cost of Compliance

\$75

TOTAL

\$83

| EFFLUENT VIOLATION TABLE | |
|-------------------------------------|-------------------------|
| City of Amherst | |
| TCEQ Permit No. WQ0010118001 | |
| Docket No. 2014-1058-MWD-E | |
| Violation Dates | pH max. conc. |
| | Limit = 9.0 s.u. |
| January 17, 2013 | 9.1 |
| February 14, 2013 | 9.1 |
| March 6, 2013 | 9.4 |
| April 11, 2013 | 9.2 |
| May 8, 2013 | 9.8 |
| June 11, 2013 | 9.2 |
| July 10, 2013 | 9.3 |
| August 12, 2013 | 9.1 |
| May 5, 2014 | 9.2 |

s.u. = standard units

max. = maximum

conc. = concentration



Compliance History Report

PUBLISHED Compliance History Report for CN600736508, RN101607687, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

| | | | |
|---|--|-------------------------------------|--------------------------------|
| Customer, Respondent, or Owner/Operator: | CN600736508, City of Amherst | Classification: SATISFACTORY | Rating: 11.04 |
| Regulated Entity: | RN101607687, CITY OF AMHERST WASTEWATER TREATMENT PLANT | Classification: SATISFACTORY | Rating: 14.29 |
| Complexity Points: | 6 | Repeat Violator: | NO |
| CH Group: | 08 - Sewage Treatment Facilities | | |
| Location: | Located northeast of Amherst, approximately 0.5 mile east and 0.75 mile north of the intersection of Farm-to-Market Road 37 and First Street in Lamb County, Texas | | |
| TCEQ Region: | REGION 02 - LUBBOCK | | |
| ID Number(s): | | | |
| WASTEWATER PERMIT WQ0010118001 | WASTEWATER LICENSING LICENSE WQ0010118001 | | |
| Compliance History Period: | September 01, 2008 to August 31, 2013 | Rating Year: 2013 | Rating Date: 09/01/2013 |
| Date Compliance History Report Prepared: | August 26, 2014 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Component Period Selected: | August 26, 2009 to August 26, 2014 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | |
| Name: | Christopher Bost | Phone | (512) 239-4575 |

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | |
|---|---|--|
| 1 | Effective Date: 05/02/2013 | ADMINORDER 2012-2134-MWD-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | 30 TAC Chapter 305, SubChapter F 305.125(5) | |
| | Rqmt Prov: Operational Requirement 1. PERMIT | |
| | Special Provisions No. 3 PERMIT | |
| | Description: Failed to properly operate and maintain all facilities and systems of treatment and control. | |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | Rqmt Prov: Permit Conditions 2.g. PERMIT | |
| | Description: Failed to prevent the unauthorized discharge of wastewater or any other waste. | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

| | | |
|--------|------------------|----------|
| Item 1 | January 27, 2010 | (787953) |
| Item 2 | June 14, 2010 | (826176) |

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF AMHERST
RN101607687**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1058-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Amherst ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located northeast of Amherst, approximately 0.5 mile east and 0.75 mile north of the intersection of Farm-to-Market Road 37 and First Street in Lamb County, Texas (the "Facility").
2. The Respondent has discharged municipal wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 14, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Nine Hundred Thirty-Nine Dollars (\$15,939) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand One Hundred Eighty-Seven Dollars (\$3,187) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 30, 2014, began maintaining a minimum of two feet of freeboard in the effluent holding ponds.
 - b. By July 3, 2014:
 - i. Employed a licensed wastewater treatment facility operator holding a valid Class C license to operate the Facility at least five days per week;
 - ii. Submitted the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013; and
 - iii. Began collecting the required effluent samples and measurements following the final treatment unit.
 - c. By August 15, 2014, updated operational guidance and conducted employee training to ensure that:
 - i. All reporting procedures are properly accomplished for annual sludge reports, in accordance with TCEQ Permit No. WQ0010118001; and
 - ii. All groundwater monitoring and reporting is conducted, in accordance with TCEQ Permit No. WQ0010118001, Special Provisions No. 19.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have:

1. Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, in violation of TEX. WATER CODE § 26.0301(a), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010118001, Special Provisions No. 2, as documented during an investigation conducted on June 12, 2014. Specifically, two unlicensed operators were operating the Facility three to four days per week.
2. Failed to timely submit the annual sludge reports for the monitoring periods ending July 31, 2011; July 31, 2012; and July 31, 2013 by September 1 of each year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TCEQ Permit No. WQ0010118001, Sludge Provisions, as documented during an investigation conducted on June 12, 2014.
3. Failed to collect the required effluent samples and measurements after the final treatment unit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(a) and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. B, as documented during an investigation conducted on June 12, 2014. Specifically, the Respondent has been collecting effluent samples and measurements following the second effluent holding pond since July 19, 2012, which is not the final treatment unit.
4. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010118001, Effluent Limitations and Monitoring Requirements No. A, as documented during an investigation conducted on June 12, 2014 and shown in the table below:

| EFFLUENT VIOLATION TABLE | |
|---------------------------------|-------------------------|
| Violation Dates | pH max. conc. |
| | Limit = 9.0 s.u. |
| January 17, 2013 | 9.1 |
| February 14, 2013 | 9.1 |
| March 6, 2013 | 9.4 |
| April 11, 2013 | 9.2 |
| May 8, 2013 | 9.8 |
| June 11, 2013 | 9.2 |
| July 10, 2013 | 9.3 |
| August 12, 2013 | 9.1 |
| May 5, 2014 | 9.2 |

s.u. = standard units

max. = maximum

conc. = concentration

5. Failed to maintain a minimum freeboard of two feet in accordance with 30 Texas Administrative Code ch. 217, Design Criteria for Domestic Wastewater Systems, in violation of 30 TEX. ADMIN. CODE §§ 217.207(d)(5) and 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 7, as documented during an investigation conducted on June 12, 2014. Specifically, a minimum freeboard of two feet was not being maintained in the Facility's effluent holding ponds.
6. Failed to properly conduct and report groundwater monitoring, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010118001, Special Provisions No. 19, as documented during an investigation conducted on June 12, 2014. Specifically, groundwater sampling records indicated that groundwater samples were collected on June 7, 2011; October 9, 2012; August 29, 2013; and February 25, 2014, which reflected that the groundwater wells were not being sampled every six months as required. In addition, the groundwater well water levels were not included as part of the collected data. Additionally, none of this data was submitted to the TCEQ Lubbock Regional Office as required.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Amherst, Docket No. 2014-1058-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TCEQ Permit No. WQ0010118001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current effluent monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits. The written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, shall be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

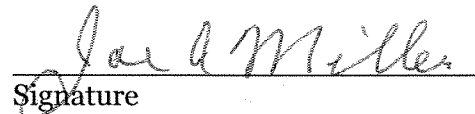
1/7/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1-21-15
Date

JOE A. MILLER
Name (Printed or typed)
Authorized Representative of
City of Amherst

1-21-15
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-1058-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-----------------------------------|---|
| Respondent: | City of Amherst |
| Penalty Amount: | Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) |
| SEP Offset Amount: | Twelve Thousand Seven Hundred Fifty-Two Dollars (\$12,752) |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Administrator: | Texas Association of Resource Conservation and Development Areas, Inc. |
| Project Name: | <i>Cleanup of Unauthorized Trash Dumpsites</i> |
| Location of SEP: | Lamb County - Brazos River Basin, Ogallala Aquifer |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Cleanup of Unauthorized Trash Dumpsites*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Amherst
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

The Respondent shall begin making twelve monthly contributions to the Third Party Administrator on this payment schedule: the first monthly payment of \$1,752 followed by eleven payments of \$1,000 each, totaling \$12,752. The first installment shall be paid within 30 days after the effective date of this Agreed Order. Subsequent payments shall be paid not later than 30 days following the due date of the previous payment. A copy of this Agreed Order shall be included each month with the donation. The SEP contributions shall be made payable to "**Texas Association of Resource Conservation and Development Areas, Inc.**" and mailed to the address below:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Amherst
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.